

FCPA Violations and their Impact on Firm Performance

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The study:

My study of the Foreign Corrupt Practices Act has supported Professor Jinsil Kim's study of the spillover effects of firm's FCPA violations on their competitor's market value.

The focus of my work has been on data collection for the model, mining the variables for the study, specifically for variables of political capital, such as sample firms' lobbying expenditures, lobbying breadth, political action committee (PAC) contributions, and board of directors' independence.

My contributions were to provide data for the variables Professor Kim used in her study of how the stock prices, or market value, of rival firms responds to FCPA violations of focal firms. The study explored how investors of rival firms respond to the start of investigations related to the focal firm as well as to official enforcement actions taken by regulatory agencies against the focal firm.

Foreign Corrupt Practices Act of 1977: The Act

The Foreign Corrupt Practices Act of 1977, or FCPA, is an act designed to prohibit bribery of foreign officials by American corporations to obtain or retain business (Department of Justice 2017).

Specifically, the law prevents the payment, promise of payment, offer of payment, or authorization of payment either of money or other items of value to foreign officials in their official capacity (Department of Justice 2017).

In addition to prohibiting corrupt payments, the law requires companies to maintain accurate records and a system of internal controls that provide reasonable assurance that all assets and transactions are accounted for and authorized by management (U.S. Securities and Exchange Commission 2017).

Who Does the Act Apply to?

The law is applicable to all American people and corporations who make corrupt payments abroad as well as foreign firms and individuals who make corrupt payments within the United States and any company with securities listed in the United States (Department of Justice 2017).

Enforcement actions can be taken against both individual violators as well as violating corporations (U.S. Securities and Exchange Commission 2017).

Acknowledgement

I'd like to express my deepest gratitude to Professor Kim for allowing me to work with her over the past three years on the FCPA project and for the countless learning opportunities I've had as a result of my work with her.

Violations of the FCPA

Violations of the FCPA result in civil enforcement actions against the violators, which are enforced by either the Department of Justice or the Securities and Exchange Commission (Jones Day Publications 2010).

The 5 parts of an FCPA violation include (Jones Day Publications 2010):

1. A payment, offer to pay, promise to pay, or authorization to pay either money or something else of value
2. To a foreign government official or anyone who will pass on the payment to such an official
3. With a corrupt motive
4. To influence the official to violate their lawful duty, obtain an improper advantage, or use their power to influence an official decision
5. For the sake of obtaining or retaining business

Variables

The focal firms of the study consists of 91 Multi-National Enterprises who engaged in bribery of foreign officials between the years of 1995 – 2017. Including the rival firms, the final sample had a total of 213 firms.

I obtained the dates for the start of the investigation which was used as a third party signal from regulators to investors of the possibility of industry-wide investigations, Stanford industry classification codes which were used to match rival firms, information on the rival firms political capital such as lobbying amount, breadth, PAC contributions and board of directors independence.

I utilized Stanford Law School's Foreign Corrupt Practices Act Clearinghouse, the Federal Election Commission's PAC and Party Committee Reports as well as OpenSecrets' Center for Responsive Politics to obtain the variables for the study.

Results

The results suggested that political capital was not significant as a moderator to the main effect on rival firm's stock prices, but the board independence was significant.

References

Department of Justice, (February 2017). *Foreign Corrupt Practices Act*. Retrieved from <https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

Jones Day Publications. (January 2010). *Foreign Corrupt Practices Act: An Overview*. Retrieved from <https://www.jonesday.com/en/insights/2010/01/the-foreign-corrupt-practices-act-an-overview>.

U.S. Securities and Exchange Commission. (February 2017). *Spotlight on Foreign Corrupt Practices Act*. Retrieved from <https://www.sec.gov/spotlight/foreign-corrupt-practices-act.shtml>.